

OGC HAS REVIEWED.

18 December 1947

MEMORANDUM FOR THE FILE

Subject: Employment of Retired Officers

1. Mr. Bolton Smith of Mr. Forrestal's office called to report upon a discussion of the employment of retired officers. He took the matter up with Mr. Fisher of GAO, who referred him to an Assistant, Mr. Denney. They discussed the effect of Section 303 of the National Security Act as affected by a Decision of the Comptroller General (B-82616, 26 C.G. 501). Mr. Denney said that the various acts now covering the employment of retired officers were so contradictory as to create almost hopeless confusion. Thus, he said the above-cited Decision might apply to employment under Section 303 but should not be considered a general precedent. To illustrate his doubts, he said that employment through a method of payment per visit might be construed as employment not involving the holding of an official position, whereas employment on a per diem basis might be construed as employment involving the holding of an official position.

2. Mr. Denney's advice was that, for the present, each case must be submitted for separate ruling. He pointed out that a bill was in preparation to try to resolve the present confusion. He told Mr. Bolton Smith that we were obtaining copies of an unpublished Decision of the Comptroller General (B-56075, 26 May 1947) on the question of the employment of retired officers by the Atomic Energy Commission under authority of Section 12(a)(5) of their Enabling Act.

LAWRENCE R. HOUSTON
General Counsel

LRH:mht